Wisconsin **REALTORS®** Association

Memorandum

To: All Legislators

From: Tom Larson, Director of Regulatory and Legislative Affairs

Date: August 18, 2009

Re: SB 93/AB 136, as amended by Senate Substitute Amendment 1 – Exempts Assessors from Trespassing Law

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For the past two sessions, the Wisconsin REALTORS® Association (WRA) has actively opposed SB 93/AB 136, legislation that would allow property tax assessors to enter onto private property without being subject to trespassing laws. While we support the efforts of local tax assessors to make sure everyone is paying their fair share of property taxes, we opposed the legislation because we believed that it would provide assessors with seemingly unlimited authority to enter onto private property and would infringe upon the fundamental rights of property owners to exclude others from entering onto their property.

However, Senate Substitute Amendment 1 addresses most of our concerns related to the proposed legislation. Accordingly, upon adoption of this substitute amendment, the WRA will remove its opposition to SB 93/AB 136.

Concerns and Proposed Changes to SB 93/AB 136

The following changes to SB 93/AB 136 have been proposed to address the concerns raised by the WRA:

- **Privacy concerns.** The concept of private property was based, in part, on the notion that individuals and their families should have some place to pursue their own interests without interference from neighbors, the public, or the government. By allowing assessors to enter onto private property without permission, this bill begins to erode the expectation of privacy associated with owning private property.
  - Proposed change
    - Specifically prohibits assessors from entering buildings or structures, opening doors or looking into the windows.

- **No limits on access.** Under the bill, assessors are given free reign to enter private property without limitation. For example, the bill does not limit when assessors can enter on to property (e.g., 24 hours a day, weekdays between 9 a.m. and 4 p.m.), how long they may stay on the property (e.g., 30 minutes, 2 hours, 6 hours), and the frequency of visits (e.g., 1 x/ every 4 years, annually, as often as they want).
  - Proposed changes
    - Allows assessors to enter onto property only on weekdays and during daylight hours, or as otherwise agreed to by property owner.

- Limit the amount of time an assessor may be on the property without permission to 1 hour.
- Limit the number of times per year an assessor can enter onto property to no more than once per year (2 times for new construction).

➢ **No notice prior to entry.** Under the bill, property owners receive notice only AFTER an assessor has entered onto their property. Because no notice is required prior to an assessor entering onto private property, property owners will not know when an assessor will be visiting their property. This could create significant safety risks for both the property owner and the assessor.

- Proposed changes
  - Allow property owners to deny entry if they have given prior notice to the local assessor or assessor's staff.
  - Require local governments and assessors to create and maintain a database identifying those property owners that have contacted them and asked that the assessor not enter onto the property without permission.
  - Local government must publish a public notice on its website indicating the approximate dates of the property revaluation. If no website, local government must publish notice in at least 3 places within the community.
  - Requires assessors to provide property owners with written notice after entering onto the property indicating why they were there.
  - Property owner can ask the assessor to leave the property.

If you have any questions, please contact me at (608) 240-8254.

Testimony of Cheri Waters
In support of Senate Bill 203 (Family Justice Bill)
August 18, 2009

To the Members of the Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing:

On the morning of May 7, 2007 my brother, Douglas R. Boone, had routine cervical disc surgery on his neck at a hospital in Northeastern Wisconsin. After his surgery, my mother and I went to visit Doug at the hospital. We were told by the nurse that Doug was having difficulty coming out of the anesthesia and that his blood pressure was high. When Doug finally came up from recovery, we visited with him for an hour or so then left. Little did we know that would be the last time we would ever talk with Doug.

Doug started to have trouble breathing and buzzed the nurse for help. The nurse had not checked under Doug's cervical collar to see if anything connected with the incision site was causing his respiratory difficulties. The neurosurgeon was called by the nurse to notify him of Doug's difficulty with breathing. He told the nurse to send the hospitalist to Doug's room. As he was talking with Doug, his breathing got worse. The hospitalist decided to intubate him. Doug fought the intubation, so the hospitalist knocked him out with medication. The hospitalist then overbagged Doug causing both lungs to collapse. Doug's heart stopped and he went into cardiac arrest. There should have been a Code Blue issued immediately when Doug experienced his respiratory crisis. It is stated in Doug's medical chart that there never was an official code blue called. Why was this?

Fortunately, but regrettably far too late, another physician happened to be passing by the room during Doug's crisis. He entered Doug's room and opened the cervical collar. He saw that Doug had developed a huge hematoma at the incision site. It was the size of a **coffee cup** and was so large that it had pushed Doug's trachea **3 inches to the left!** The 2nd doctor opened the clot and inserted a tube which restored Doug's airflow. At this point, Doug had been without sufficient oxygen for 20-30 minutes and was now in a coma due to irreversible brain damage.

The hospitalist spoke with the family about what supposedly had occurred. He seemed nervous, irritated, and quick to blame the neurosurgeon for nicking Doug during surgery causing the hematoma. He waved a piece of paper in the air, repeatedly stating "Everything that happened is documented here!"

Doug remained on life support and comatose, a victim of unnecessary and inexcusable anoxic encephalopathy. We found out that the hospitalist was let go from the hospital one week later, although the hospital never revealed what had happened to him when we asked.

When we did some checking on the Wisconsin Department of Regulation & Licensing website, we discovered that the hospitalist had a history of alcohol & drug abuse in the

state of Ohio dating back to 2001 for which he was disciplined and also disciplinary action in Wisconsin!

Most shocking of all was the later revelation that the hospitalist was urine tested the day after Doug's death and came up **positive for cocaine.** He received a stay of suspension six months later and incredibly is now currently practicing as a hospitalist at another medical center in Wisconsin!

We feel as a family, that our hands were tied after our loved one was taken from us as a result of the negligent actions of doctor with a extensive history of cocaine and alcohol abuse. Under current Wisconsin law, we were unable to file for malpractice. This has only served to compound our grief and continued heartache at the loss of our beloved Doug. We were only interested in obtaining justice for the events that caused his senseless and totally preventable death. Last spring I filed a formal complaint with the Wisconsin Department of Regulation & Licensing.

We are now pleading for equal treatment of all medical malpractice cases. If Doug had been married, had minor children, or a dependent parent, legal action could have been taken. How is the current law fair and just?

We don't want any other families to have to go through this tragic, heart-wrenching experience with no legal recourse after losing a loved one. The Family Justice Bill would allow for fairness and justice in all cases of medical malpractice.

Thank you,

Cheri Waters
Sister of Douglas R. Boone (1952 – 2007)
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